

UNITED STATES DISTRICT COURT

FEB 26 2025

for the
Western District of North Carolina
Charlotte DivisionUS DISTRICT COURT
WESTERN DISTRICT OF NCCalvin Jerome Worme Jr

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Sergeant J.M. Heffner, Deputy Postell
Sheriff Chad E. Hawkins, Sergeant Reese

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No.

3:25-cv-141-GM
(to be filled in by the Clerk's Office)COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

CALVIN JEROME WOMIE JR.

All other names by which
you have been known:

Calvin Womie, Calvin J. Womie, Calvin Womie Jr.

ID Number

#1474/61

Current Institution

Piedmont Correctional Institution Medium Facility

Address

1245 Camp Road.

Salisbury

City

NC

State

28147-9223

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Sargent Heese

Job or Title (*if known*)

Jailer/Deputy

Shield Number

Employer

Sheriff's office/Gaston County Jail

Address

425 DR. Martin Luther King Jr. Way

Gastonia

City

NC

State

28052

Zip Code



Individual capacity



Official capacity

Defendant No. 2

Name

Sargent J.M. Heftner

Job or Title (*if known*)

Jailer/Deputy

Shield Number

Employer

Gaston County Jail/Sheriff's Office

Address

425 DR. Martin Luther King Jr. Way

Gastonia

City

N.C.

State

28052

Zip Code



Individual capacity



Official capacity

Defendant No. 3

Name

Chad E. Hawkins

Job or Title (if known)

Sheriff

Shield Number

Employer

Sheriff Office/Gaston County Jail

Address

475 Dr. M.L.K. JR. Way

Gastonia

NC

28052

City

State

Zip Code



Individual capacity



Official capacity

Defendant No. 4

Name

Deputy Postell

Job or Title (if known)

Deputy/Jailer

Shield Number

Employer

Gaston County Jail/Sheriff Office

Address

475 Dr. M.L.K. JR. Way

Gastonia

N.C

28052

City

State

Zip Code



Individual capacity



Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

4th amendment - Use of excessive Force
 4th Amendment - Cruel & Unusual Punishment

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

in multiple times on my right forearm, back & upper buttocks area, while I was subdued in handcuffs with my back turned towards the officers while my hands were held up & out in the air while still in handcuffs facing the wall. Sergeant Jim Hoffman & Sergeant Reese failed to control Deputy Postell while present. Both sergeants followed a policy of deliberate indifference & excess disregard for the Constitutional Rights of persons within the Gaston County Jail. Chad E. Hawkins established objectionable Rules & Policies pertaining to the employment of Gaston County Sheriff's & Jailers & resulted in the ongoing Secomp where we get mistreated & wasn't able to detox until hours later. Literally all over my area of room being destroyed & not handled or search in a fashionable manner.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):



Pretrial detainee



Civilly committed detainee



Immigration detainee



Convicted and sentenced state prisoner



Convicted and sentenced federal prisoner



Other (explain)

happened while I was Pretrial detainee due to them holding my legal mail for months I didn't send it out until convicted & sentenced to state. So not sure which box to check!

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Arose in Gastonia, North Carolina at Gaston County Jail in A-Block at IN Room EE On Bottom Between 4:00pm-5:30pm On Sgt. Hughes Shift.

C. What date and approximate time did the events giving rise to your claim(s) occur?

Tuesday 10/29/2024 Between 4:00pm - 6:30pm

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what?

Was anyone else involved? Who else saw what happened? I was shot with pepper balls while inside my cell. Deputy Postell while in handcuffs, I had my back turned towards multiple officers while my face was towards the wall. I had my hands raised in the air (above my head) held out to the side while in handcuffs & was shot by Deputy Postell, Sergeant Reese & Agent J.M. Heffner allowed for the use of excessive force to be used while in their presence. Upon me being shot I remained standing with my hands still held out in front of me in the air, over my head out to the left side while still in handcuffs. Officers used the door & then re-opened door seconds later. I layed down & my hands were uncuffed & I was visited & beat in not possible ways to try & go behind my back. I was placed in restraint chair in the red. Patted for medical & placed in Booking Hall & wasn't able OR allowed to detox until hours later. That's cruel & unusual punishment. Cell de Mareshawn Sanders seen what happen, Body Camera & multiple officers.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Thumb is Swollen & possibly dislocated. Stiffness & numbness in fingers up to arm & neck. Nerve Damage, Pinched Nerve in Arm & Kneec. Disruptive Sleep. Crying spells. Paranoia, Nightmares. Phobia of Guys & People Standing behind Me. Night Sweats

I've called out multiple sick calls & medical health issues & have not been answered except once & was told I was over Tylonal & something else. For Pain & Inflation For Thumb being Swollen / was told Couldn't do anything / Still haven't done anything about dislocation For nerve Damage.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I seek \$1.6 million from each defendant for My Physical, Mental & Emotional Pain & Suffering, also, For Intentional infliction of emotional distress.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Gaston County Jail

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☒ Do not know

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

On My Tablet at the Gaston County Jail

2. What did you claim in your grievance?

(Nov. 3, 2024) I was shot in handcuffs with pepperballs multiple times & now I'm being refused names of officers. May I please get names of officers!

3. What was the result, if any?

(On November 12, 2024 got response.) You refused to comply with orders & were shot with pepperballs for safety of our officers!

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

(On Nov 15, 2024) I responded & said, The amount of officers plus me being in handcuffs with my back turned & hands up & out in front of me eliminated me being a threat to officers & inmates. May I please get the names of the Deputy's that shot me with pepperballs please! Keep asking for badge numbers & names & I'm being refused or not answered.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☒ Yes

☐ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) Calvin Jerome Womack Jr.

Defendant(s) Francisco Cortez

2. Court (if federal court, name the district; if state court, name the county and State)

Western District North Carolina, Charlotte Division

3. Docket or index number

3:21-cv-00315-MR

4. Name of Judge assigned to your case

MARTIN REIDINGER

5. Approximate date of filing lawsuit

July 1st, 2021

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition.

April 6, 2023

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

Judicial Settlement in My Favor

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*
